

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VINCENZO MAZZAMUTO,

Plaintiff

v.

UNUM PROVIDENT  
CORPORATION, PAUL REVERE  
LIFE INSURANCE COMPANY and  
NEW YORK LIFE INSURANCE  
COMPANY,

Defendants

Case No. 1:01-CV-1157

JUDGE CONNER

FILED  
HARRISBURG, PA

OCT 21 2002

MARY E. D'ANDREA, CLERK  
Per S/S  
Deputy Clerk

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S MOTION IN LIMINE**

Defendants UNUMProvident Corporation, The Paul Revere Life Insurance Company and New York Life Insurance Company hereby answer plaintiff's motion in limine as follows:

1. Admitted in part and denied in part. It is admitted that plaintiff alleges that he is disabled in his Complaint. It is denied that plaintiff is disabled, or unable to perform his occupational duties because of sickness, disease and anxiety.
2. Admitted in part and denied in part. It is admitted only that the averments of paragraph 2 of plaintiff's motion contain a description of his occupation. It is denied that the averments of paragraph 2 of plaintiff's motion contain a full and complete description of his occupational duties.

3. Admitted in part and denied in part. It is admitted only that the averments of paragraph 3 of plaintiff's motion contain a description of his occupational duties. It is denied that the averments of paragraph 3 of plaintiff's motion contain a full and complete description of his occupational duties.

4. Denied.

5. Denied. Defendants are unable to respond to the allegations in paragraph 5 because plaintiff has continually changed the grounds of his disability.

6. Admitted in part and denied in part. It is admitted only that defendants contend that plaintiff is not disabled from performing his occupational duties. It is denied that the averments of paragraph 6 of plaintiff's motion contain a full and complete description of defendants' position.

7. Denied.

8. Admitted that plaintiff has presently made the allegation that he is disabled as a result of an emotional condition and a back condition. It is denied that the averments of paragraph 8 of plaintiff's motion provide a full and complete description of Dr. Bower's testimony.

9. Admitted in part and denied in part. It is admitted only that defendants contend that plaintiff's stock trading is relevant to this case. It is denied that the averments of paragraph 9 of plaintiff's motion contain a full and complete description of defendants' position. By way of further answer, defendants incorporate herein in its entirety their brief in support of their response to plaintiff's

motion which explains in detail why the evidence in question is both relevant and admissible.

10. Admitted.

11. Denied.

12. Admitted in part and denied in part. It is admitted that plaintiff has spinal stenosis and has back pain. The remaining allegations are denied.

13. Admitted in part and denied in part. It is admitted that plaintiff has engaged in significant stock trading since his heart attack. The remaining allegations are denied.

14. Admitted.

15. Admitted.

16. Admitted in part and denied in part. It is admitted that defendants have no scientific support for a theory that trading in stocks and losing substantial money is relevant to plaintiff's claimed disability. However, it is denied that such "scientific support" is required and it is further denied that plaintiff's trading in stocks and losing a substantial amount of money is not relevant to plaintiff's ability to perform similar duties as he performed while operating his business. By way of further answer, defendants incorporate herein in its entirety their brief in support of their response to plaintiff's motion which explains in detail why the evidence in question is both relevant and admissible.

17. Denied.

18. Admitted.

19. Denied.

20. Admitted.

21. Denied.

22. Admitted. However, the evidence of plaintiff's stock trading is very probative to his ability to perform the material and substantial duties of his occupation and the probative value is not outweighed by the danger of unfair prejudice.

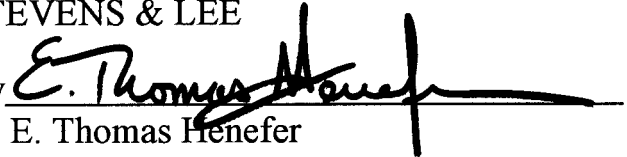
23. Denied.

WHEREFORE, the defendants respectfully request that plaintiff's motion in limine to exclude the evidence of stock trading be denied.

Respectfully submitted,

Dated: October 21, 2002

STEVENS & LEE

By 

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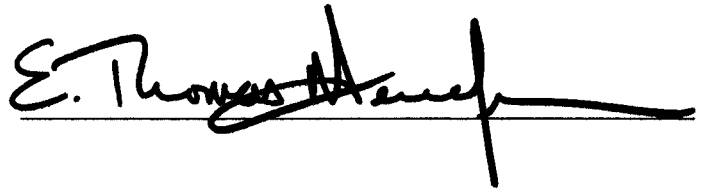
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Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I, E. THOMAS HENEFER, ESQUIRE, certify that on this date, I served a certified true and correct copy of the foregoing Defendants' Answer To Plaintiff's Motion In Limine upon the following counsel of record, by hand delivery as follows:

Richard C. Angino, Esquire  
Angino & Rovner, P.C.  
4503 N. Front Street  
Harrisburg, PA 17110

A handwritten signature in black ink, appearing to read "E. Thomas Henef", written over a horizontal line.

Date: October 21, 2002